

MOBIL OIL CORPORATION

IBLA 75-311

Decided May 27, 1975

Appeal from decision of California State Office, Bureau of Land Management, rejecting oil and gas lease offers CA 1589-1607 and CA 1609.

Affirmed.

1. Oil and Gas Leases: Applications -- Oil and Gas Leases: Lands
Subject to -- Withdrawals and Reservations: Generally -- Withdrawals
and Reservations: Effect of

Oil and gas lease offers embracing lands withdrawn or reserved for any agency of the Department of Defense may not be granted without the consent of that Department. 43 U.S.C. § 158 (1970). Such lease offers must be rejected where such consent is withheld as inconsistent with the military use, and the offers may not be suspended to await the possible availability of the lands for leasing.

APPEARANCES: Paul Moody, Esq., Mobil Oil Corporation, Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

Oil and gas lease offers CA-1589 through 1607 and CA-1609 were rejected on December 12, 1974, by the California State Office, Bureau of Land Management, because the Navy, the administrative agency with jurisdiction over the land, refused its consent to oil and gas operations on San Clemente Island. The June 7, 1974, report 1/ from the Assistant Secretary of the Navy withholds such

1/ That report states as follows:

"Mr. Walter F. Holmes, Chief, Branch of Lands & Mineral Operations, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825

consent. Appellant does not allege error in the decision below; it asserts that the conditions under which it would operate oil and gas leases would not interfere with requirements for the Navy's continued use. It requests that the applications be held suspended until Mobil has further opportunity to negotiate with the Navy.

[1] Minerals in lands withdrawn or reserved for the use of any agency of the Department of Defense, e.g., the Navy, may not be disposed of without the consent of that Department where it has been determined that leasing would be inconsistent with the military use of the lands. 43 U.S.C. § 158 (1970). Where an offer must be rejected, it will not be held in suspense until the land may become available for leasing. J. G. Hatheway, 68 I.D. 48 (1961). The decision below correctly rejected the applications. Appellant does not assert error in that decision, but requests further opportunity to negotiate with the Navy. Some four months have elapsed since the filing of the appeal. The Navy has not manifested any change in its position.

fn. 1 (continued)

Dear Mr. Holmes:

"Your letter of April 24, 1974 requesting a report as to the feasibility of permitting oil and gas leasing activity on the lands comprising San Clemente Island has been forwarded to me for response.

"During the past year, the Department of Interior, Department of Defense and the Department of the Navy have worked to develop a position regarding exploitation of oil and gas resources in the Channel Island area offshore Southern California. On May 3, 1974, final agreement was reached between the Department of Interior and the Department of Defense as to which portions of the area would be opened for exploitation. This agreement serves the national interest in terms of current and projected energy requirements without significantly degrading national defense efforts.

"With regard to San Clemente Island, it was and is the Department of the Navy's position, agreed to by the Department of Defense and the Department of Interior, that the nature of Naval operations in this area do not permit oil exploitation on or in the waters surrounding San Clemente. The agreement stipulates that San Clemente island and adjacent waters within 25 miles constitute an area within which oil exploration or exploitation will not be conducted.

"I trust the foregoing will aid you in replying to the Mobil Oil Corporation. Additional information may be obtained by contacting the Department of Interior direct.

"Sincerely yours,

[signature]

Jack L. Bowers

Assistant Secretary of the Navy
(Installations & Logistics)"

Therefore, pursuant to the authority delegated to the Board of Land Appeals, 43 CFR 4.1, the decision appealed from is affirmed.

Frederick Fishman
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Joseph W. Goss
Administrative Judge

